

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: June 1, 2006

Signature: \_\_\_\_\_

(Scott E. Charney)

Docket No.: MOLLO 3.0-001  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Richard Mollo

Application No.: 10/797,347

Filed: March 10, 2004

For: ARTICLE WITH 3-DIMENSIONAL  
SECONDARY ELEMENT

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: Group Art Unit: 3765  
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: Examiner: R. M. Lindsey  
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

This communication is in response to the Office Action mailed March 24, 2006, setting forth a restriction requirement in the above identified application. As an initial matter, the undersigned wishes to thank Examiner Lindsey for the courtesies exhibited during the telephonic interview of March 20, 2006, even though no agreement was reached.

In the Office Action mailed March 24, 2006, the Examiner required restriction to one of the species embodied by claims 2-12 and 14-36 (Species I) or claims 37-52 (Species II).

In response, Applicant hereby elects the invention of Species I, claims 2-12 and 14-36, for prosecution with traverse. Should the traversal be unsuccessful, Applicant reserves the right to file one or more divisional applications corresponding to the nonelected subject matter.

Applicant traverses the Restriction Requirement on the basis that such restriction is improper. Under M.P.E.P. § 803, if the search and examination of all claims in an application can be made without serious search burden, the Examination must examine the claims on the merits, even though they include claims to independent or distinct inventions. Accepting, *arguendo*, the Examiner's position that the claims include independent and distinct subject matter, the Examiner has still not alleged that a serious search burden exists. Indeed, the Office Action of March 7, 2006, does not mention the words "search" or "burden." The Examiner has not satisfied the requirements for restriction, and the restriction should not stand.

To further this point, Applicant notes that the Examiner has already conducted the search and examined the claims. Such piecemeal prosecution is improper, and only adds the burden of additional expenses to Applicant.

For at least these reasons, Applicant requests that the restriction be withdrawn and the case moved forward with all pending claims, which are believed to be allowable based on the Examiner's previous indication.

If, for any reason the Examiner does not believe that the requested actions can be taken at this time, it is respectfully requested that he telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he may have.

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In the event any fee is due in connection with the present response, the Examiner is authorized to charge Applicant's Deposit Account No. 12-1095 therefor.

Dated: June 1, 2006

Respectfully submitted,

By



Scott E. Charney

Registration No.: 51,548

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicant

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